

**City Council Regular Session
November 14, 2016**

The City Council of the City of Elizabeth City met in regular session on Monday, November 14, 2016 in Council Chambers, located on the 2nd floor of the Municipal Administration Building, 306 E. Colonial Avenue, Elizabeth City, NC.

MEMBERS PRESENT: Mayor Joe Peel
Councilman Ray Donnelly
Mayor Pro Tem Anita Hummer
Councilman Tony Stimatz (*arrived at 7:03 p.m.*)
Councilman Michael Brooks
Councilman Rickey King
Councilman Darius Horton
Councilman Johnnie Walton

MEMBERS ABSENT: Councilwoman Jean Baker

OTHERS PRESENT: City Manager Rich Olson
City Attorney Bill Morgan
Finance Director Sarah Blanchard
Planning Director June Brooks
Police Chief Eddie Buffaloe
Electric Superintendent Karl Clow
Assistant City Manager Angela Cole
Human Resources Director Katherine Felton
Assistant Public Utilities Director Larnetta Brothers
Fire Chief Larry Mackey
IT Director Matthew Simpson
Parks and Recreation Director Bobbi White
City Clerk Vivian White

The City Council regular session was called to order by Mayor Joe Peel at 7:00 p.m. Mayor Peel welcomed everyone to the meeting and recognized Councilman Michael Brooks to give the invocation, after which Mayor Peel led the Pledge of Allegiance.

Mayor Peel announced that Councilwoman Baker was receiving medical care in Florida and not able to attend the meeting.

1. Agenda Adjustments and Approval:

Mayor Peel requested Council's pleasure regarding approval of the prepared agenda.

Councilman Walton requested to remove items "e" and "f" from the Consent Agenda and place them on the Regular Agenda for discussion; and he requested to add "Salary Raise."

Councilman Brooks requested to add to the Regular Agenda "Fire Hydrant System" and "City Council Regular Session Minutes."

Motion was made by Councilman Rickey King, seconded by Mayor Pro Tem Anita Hummer, to approve the agenda with any necessary adjustments. Those voting in favor of the motion were: Donnelly, Hummer, Brooks, King, Horton, and Walton. Against: None. The motion carried. (*Stimatz had not yet arrived.*)

2. Statement of Disclosure:

The City Clerk read the Statement of Disclosure. No conflict of interest disclosures regarding items listed on the agenda were made.

3. Proclamation:

- a. Small Business Saturday – November 26, 2016

Mayor Peel read and presented to ECDI Director Debbie Malenfant a proclamation declaring November 26, 2016 as Small Business Saturday in Elizabeth City. The proclamation urged all residents of our community to support small businesses and merchants on Small Business Saturday as well as throughout the year and to celebrate the contributions they make to our local economy and community. Ms. Malenfant thanked Mayor Peel and the City Council for the recognition.

4. Comments from the Public:

There were no public comments.

5. Approval of Minutes:

Mayor Peel requested the Council's pleasure regarding approval of the prepared minutes.

- a. City Council Regular Session of January 11, 2016

Motion was made by Mayor Pro Tem Hummer, seconded by Councilman King to approve the City Council Regular Session minutes of January 11, 2016. Those voting in favor of the motion were: Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

- b. City Council Work Session of January 25, 2016

Motion was made by Mayor Pro Tem Hummer, seconded by Councilman King to approve the minutes of the Work Session of City Council of January 25, 2016. Those voting in favor of the motion were: Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

- c. City Council Regular Session of January 25, 2016

Motion was made by Mayor Pro Tem Hummer, seconded by Councilman Horton to approve the minutes of the City Council Regular Session of January 25, 2016. Those voting in favor of the motion were: Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

- d. City Council Regular Session of February 8, 2016

Motion was made by Mayor Pro Tem Hummer, seconded by Councilman King to approve the minutes of the City Council Regular Session of February 8, 2016. Those voting in favor of the motion were: Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

- e. City Council Work Session of February 22, 2016

Motion was made by Mayor Pro Tem Hummer, seconded by Councilman King to approve the City Council Work Session of February 22, 2016. Those voting in favor of the motion were: Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

6. Consent Agenda:

(Clerk Notation: Items "a" thru "d" were recommended for approval by the Finance Committee during their meeting of November 9, 2016.)

Mayor Peel recognized City Manager Olson to read the items on the Consent Agenda into the record. Mr. Olson recommended approval of all items as follows:

Beginning of Consent Agenda:

- a. Consideration – Authorization to Submit Assistance to Firefighters Grant in the amount of \$111,000;
- b. Consideration – Authorization to Submit Application to Tourism Development Authority for Highway 17 Association in the amount of \$1,000;
- c. Consideration – Adoption of the following Resolution to Designate Agents for the City's Application for assistance related to Hurricane Matthew;

2016-11-01

RESOLUTION DESIGNATION OF APPLICANT'S AGENT North Carolina Division of Emergency Management	
Organization Name (hereafter named Organization) Disaster Number <i>City of Elizabeth City, NC</i> <i>4285 DRNC</i>	
Applicant's State Organization Agency for Single Audit purposes (If Cognizant Agency is not assigned, please indicate): <i>North Carolina Emergency Management</i>	
Applicant's Fiscal Year (FY) Start Month: <i>July</i> Day: <i>01</i>	
Applicant's Federal Employer's Identification Number <i>56-6000 226</i>	
Applicant's Federal Information Processing Standards (FIPS) Number <i>139-20580-00</i>	
PRIMARY AGENT	SECONDARY AGENT
Agent's Name <i>Richard C. Olson</i>	Agent's Name <i>Sarah Blanchard</i>
Organization <i>City of Elizabeth City</i>	Organization <i>City of Elizabeth City</i>
Official Position <i>City Manager</i>	Official Position <i>Finance Director</i>
Mailing Address <i>P.O. Box 347</i>	Mailing Address <i>P.O. Box 404</i>
City, State, Zip <i>Elizabeth City, NC 27907</i>	City, State, Zip <i>Elizabeth City, NC 27907</i>
Daytime Telephone <i>252-337-6864</i>	Daytime Telephone <i>252-337-6861</i>
Facsimile Number <i>252-335-2503</i>	Facsimile Number <i>252-338-3451</i>
Pager or Cellular Number <i>252-339-6526</i>	Pager or Cellular Number <i>252-334-3563</i>
BE IT RESOLVED BY the governing body of the Organization (a public entity duly organized under the laws of the State of North Carolina) that the above-named Primary and Secondary Agents are hereby authorized to execute and file applications for federal and/or state assistance on behalf of the Organization for the purpose of obtaining certain state and federal financial assistance under the Robert T. Stafford Disaster Relief & Emergency Assistance Act, (Public Law 93-234 as amended) or as otherwise available. BE IT FURTHER RESOLVED that the above-named agents are authorized to represent and act for the Organization in all dealings with the State of North Carolina and the Federal Emergency Management Agency for all matters pertaining to such disaster assistance required by the grant agreements and the assurances printed on the reverse side hereof. BE IT FINALLY RESOLVED THAT the above-named agents are authorized to act severally. PASSED AND APPROVED this <i>14</i> day of <i>November, 2016</i>	
GOVERNING BODY	CERTIFYING OFFICIAL
Name and Title <i>City Council of the</i>	Name <i>[Signature]</i>
Name and Title <i>City of Elizabeth City</i>	Official Position <i>Joseph W. Peel, Mayor</i>
Name and Title	Daytime Telephone <i>252-337-6955</i>
CERTIFICATION	
I, <i>Vivian D. White</i> , (Name) duly appointed and <i>City Clerk</i> (Title) of the Governing Body, do hereby certify that the above is a true and correct copy of a resolution passed and approved by the Governing Body of <i>City of Elizabeth City</i> (Organization) on the <i>14</i> day of <i>November, 2016</i> Date: <i>November 14, 2016</i> Signature: <i>[Signature]</i>	
Rev. 06/12	

- d. Consideration – Adoption of the following Budget Amendments required for Accounting Purposes;

BUDGET AMENDMENTS

BE IT ORDAINED by the City Council of the City of Elizabeth City that the following amendments be made to the annual budget ordinance for the fiscal year ending June 30, 2017:

SECTION I. That the Community Support Grants (106620.6000) be decreased by \$50,000 and the following accounts be increased as listed below:

(106620.5810)	Arts of the Albemarle	\$ 1,000
(106620.5820)	Albemarle Family YMCA	2,000
(106620.5863)	Boys & Girls Club of Elizabeth City	4,000
(106620.4610)	Food Bank of the Albemarle	10,000

(106620.5878)	Healthy Carolinians of the Albemarle	500
(106620.5830)	Kids First	8,000
(106620.4595)	NC Blazers	2,000
(106620.5879)	Northeast Coalition to End Homelessness	3,000
(106620.4540)	Pasquotank Library	2,000
(106620.5866)	Port Discover	7,500
(106620.5873)	River City CDC – Walker House	5,000
(106620.5887)	Visions of Hope	5,000
	Total	<u>\$50,000</u>

(To record community support contributions for FY 2016/17.)

SECTION II. That the Police Donations (103220.0050) and Crime Prevention Expenditures (105100.3302) be increased by \$2,250.

(To record police calendar sales to be used to purchase crime prevention informational items.)

SECTION III. That the General Fund Insurance Proceeds (103350.8300) and Police Firearms Training (105100.1401) be increased by \$2,171.88.)

(To record insurance proceeds from theft at firing range.)

SECTION IV. That the General Fund Balance Appropriated (103990.0000) and Police Capital Outlay (105100.7400) be increased by \$26,790.

(To record purchase of live fingerprint scanning machine and drug surveillance equipment to be funded from previously collected confiscated police funds.)

This amendment will decrease General Fund Balance by \$26,790.

SECTION V. That the Tourism Development Authority Grant Revenue (103180.0000) and Veteran’s Park Expenditures (106200.7300) be increased by \$12,490.

(To record tourism grant for Veteran’s Park)

ADOPTED, this 14th day of November 2016.

Joseph W. Peel
Mayor

Vivian D. White, CMC/NCCMC
City Clerk

- e. Consideration – Adoption of the following Ordinance Authorizing Street Closing Request related to Christmas Parade event:

**ORDINANCE #2016-11-01
AN ORDINANCE DECLARING A ROAD CLOSURE FOR THE ANNUAL NATIONAL
NIGHT OUT EVENT**

WHEREAS, the City Council of Elizabeth City acknowledges a long tradition of providing an annual Christmas Holiday parade for the pleasure of its citizens; and

WHEREAS, the City Council of Elizabeth City acknowledges its citizens realize a financial and public safety benefit from holding the annual Christmas Holiday Parade event; and

WHEREAS, the City Council of Elizabeth City acknowledges the parade event requires approximately three hours to install signing and traffic control, structures and equipment, and also requires approximately two (2) hours for removing same, and litter;

NOW THEREFORE BE IT ORDAINED, by the City Council of Elizabeth City pursuant to the authority granted by G.S. 20-169 that they do hereby declare a temporary road closure during the day(s) and times set forth below on the following described portion of a State Highway System route:

Date: Saturday, December 3, 2016
Time Duration: 4:00 p.m. until 11:00 p.m.
Route Description: W Ehringhaus Street (US Business Highway 17) at Westover Street intersection
West and E Ehringhaus Street (US Business Highway 17) and its intersections with:
Persse Street
Brooks Avenue
Culpepper Street
Madrin Street
S Dyer Street
S Road Street
S Martin Luther King, Jr. Drive
S McMorrine Street
S Water Street
North of the S Water Street / Southern Avenue (SR 34/1164) intersection at Riverside Avenue, not to prevent access across the Charles Creek Bridge
West intersection of E Church Street and S Water Street (by The Daily Advance building)

This will serve as the planned route for the parade. However, on the possibility that the infrastructure improvements along the S Road Street right-of-way have been completed, street closing of the alternate (and traditional) route for the parade is hereby authorized:

Route Description: Alternatively, the parade would change course at the W Ehringhaus – S Road Street intersection, to travel north along S Road Street, then east along E Main Street, then turning south at S Water Street, continuing where the planned and alternate routes intersect to the parade terminus.
S Road Street from the E Ehringhaus Street (US Business Highway 17) intersection, northbound to the E Main Street right-of-way
E Main Street from the S Road Street intersection, eastward to S Water Street/Southern Avenue (SR 34/1164).

This ordinance to become effective when signs are erected giving notice of the limits and times of the event, and implementation of adequate traffic control to guide through vehicles around the event site.

SECTION I. EFFECTIVE DATE: This Ordinance shall take effect immediately upon adoption.

SECTION II. SEVERABILITY CLAUSE. If any section, or part of provision of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, then it is expressly provided and it is the intention of the City Council of the City of Elizabeth City in passing this Ordinance that its parts shall be severable and all other parts of this Ordinance shall not be affected thereby and they shall remain in full force and effect.

READ, CONSIDERED, AND ADOPTED at a regular meeting of the City Council of the City of Elizabeth City, North Carolina, during which a quorum was present, held on the 14th day of November, 2016.

Joseph W. Peel
Mayor

Vivian D. White, CMC/NCCMC
City Clerk

End of Consent Agenda.

Motion was made by Councilman King, seconded by Councilman Donnelly to approve the Consent Agenda. Those voting in favor of the motion were: Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

Clerk Notation: Mayor Peel moved the agenda forward to the Regular Agenda to await the 7:30 p.m. scheduled time for the public hearings.

7. Public Hearings:

- a. Consideration – Downtown Improvement Grant Application for Coasters Downtown Draught House, LLC

Councilman Horton stated that it was his intent to apply for a Downtown Improvement Grant on his business' behalf during the current fiscal year and felt that it was not appropriate for him to deliberate the other applications. He requested that the Council recuse him from the discussion of all the applications.

Motion was made by Councilman Stimatz, seconded by Mayor Pro Tem Hummer, to recuse Mr. Horton from discussion and vote on this issue. Those voting in favor of the motion were: Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

Mayor Peel announced the subject of the first hearing and declared the Public Hearing open at 7:30 p.m. He inquired of the City Clerk if persons were present who wished to be heard. The City Clerk called Christina Rehklau, 1207 Fairfax Avenue, Elizabeth City, NC to the podium.

Ms. Rehklau advised that she served as director of the Elizabeth City-Pasquotank County Tourism Development Authority. She stated that any time the City's downtown appearance is improved, an impact is felt by the local tourism industry. She provided statistics from tourism industry publications to support her opinion. She encouraged the Council to give favorable consideration to the Downtown Improvement Grant applications as being good for the community.

There being no further speakers on this topic, Mayor Peel declared the Public Hearing Closed.

Motion was made by Councilman Donnelly, seconded by Councilman King to approve Coasters Downtown Draught House, LLC's Downtown Improvement Grant Program request in the amount of \$13,750; and further, require that the funding be expended by June 1, 2017. Those voting in favor of the motion were: Donnelly, Hummer, Stimatz, Brooks, King, and Walton. Against: None. Motion carried.

b. Consideration – Downtown Improvement Grant Application for ECBC, LLC:

Mayor Peel announced the subject matter of this Public Hearing and declared the Public Hearing open. He inquired of the City Clerk if persons were present who wished to be heard. Upon her reply that no one wished to speak, Mayor Peel declared the Public Hearing closed.

City Manager Olson provided an overview of the ECBC LLC application for the Council. He noted that the project would be a multi-phase project, with the first phase being the improvement of the building façade. He noted that would require Historic Preservation Commission approval.

Councilman Walton expressed his concern of providing funding to LLC's without "putting a face to it." He stated that the funding could be going to the same person that way and he didn't believe the City should help the same people all the time.. City Manager Olson invited Mr. Dean Schaan, principal of ECBC, LLC to stand.

Councilman Donnelly inquired as to the number of phases expected to complete the project. Mr. Schaan responded that most likely it would involve three phases.

Councilman Stimatz pointed out that the Downtown Improvement Grant Program guidelines impose a limit of \$20,000 annually for each applicant. He noted that guideline would prevent multiple grants by an LLC in one fiscal year.

Motion was made by Councilman Donnelly, seconded by Councilman Brooks, to approve ECBC, LLC's Downtown Improvement Grant Program request for Phase I of the project in the amount of \$17,320.00, contingent upon City Council approving the addition of the business use to the City's Unified Development Ordinance and receipt of a Certificate of Appropriateness from the Planning Department; and further, require that the funding be expended by June 1, 2017. Those voting in favor of the motion were: Donnelly, Hummer, Stimatz, Brooks, King, and Walton. Against: None. Motion carried.

c. Consideration – Downtown Improvement Grant Application for Shingle Landing, LLC

Mayor Peel announced the subject of this hearing and declared the Public Hearing open. He inquired of the City Clerk if persons were present who wished to be heard. The City Clerk called Blair Jackson, 1523 Rivershore Road, Elizabeth City, NC to the podium.

Ms. Jackson stated that she and her husband were the principals in the proposed project for Shingle Landing, LLC. She thanked the Council for their insight in promoting the value of the downtown through Downtown Improvement Grants. She stated that the funding was a tremendous aid to people with a vision; and served as the positive boost needed to get the project done. She stated that she appreciated the opportunity to apply and encouraged the City Council to look favorably upon their application.

There being no others present who wished to speak on this topic, Mayor Peel declared the public hearing closed.

Motion was made by Councilman Donnelly, seconded by Councilman King to approve Shingle Landing, LLC's Downtown Improvement Grant Program request in the amount of \$20,000.00, contingent upon City Council approving the addition of the business use to the City's Unified Development Ordinance, and submission of detailed drawings and issuance of appropriate permits from the Inspections Department; and further, require that the grant funding be expended by June 1, 2017. Those voting in favor of the motion were: Donnelly, Hummer, Stimatz, Brooks, King, and Walton. Against: None. Motion carried.

8. Regular Agenda:

- a. Information/Discussion – Previously Tabled Request by New Calvary Missionary Baptist Church regarding Walnut Street Park

Mayor Peel recognized Mr. Olson to begin the discussion of this matter. Mr. Olson stated that this item came before the Council seven months prior and was tabled at that time. He said that at that time, the Council received a request from New Calvary Missionary Baptist Church to lease Walnut Street Park from the City. He noted that there is an ongoing internal church dispute regarding who is in control of the church. He said that when the Council tabled the item during the April 11, 2016 meeting, a request had been made to bring it back in six months. Mr. Olson reported that a Motion for Summary Judgement had been filed, but denied; and the case had not yet gone through the Court system. He recommended that the Council table the item for an additional six months pending outcome of the trial.

Motion was made by Councilman Darius Horton, seconded by Councilman Ray Donnelly, to table said item for an additional six months.

Councilman Stimatz asked for a friendly amendment to table the item for six months or until such time as the litigation is completed. Councilman Horton stated that he preferred to leave the time period at six months.

Those voting in favor of the motion were: Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

- b. Information/Discussion – Police and Fire Department Equipment and Surveillance Camera Update:

Mayor Peel called on Mr. Olson for the report on this matter. Mr. Olson advised that this item was introduced during the last City Council meeting by Councilman Stimatz. He stated that the Councilman had requested that staff provide a list of the minimum equipment needed by Police and Fire Department personnel to function on a day to day basis.

Mr. Olson stated that staff had provided in the agenda package a list of all items for both departments on hand as well as the items needed for the departments. He pointed out that the City has adequate supplies and equipment to meet minimum needs. Mr. Olson stated that even though adequate equipment was on hand, he wanted to point out that there are always technology advances on which the City could be lagging behind. He said that the equipment currently on hand meets the mission of both departments. He pointed out that staff is always looking for grant opportunities to make upgrades without encumbering City budget dollars. Mr. Olson advised that every year when new Police Cars are purchased, they are outfitted with everything needed, including a radio system, cameras, MDT's, cages, lights and the like.

Councilman Stimatz stated that he felt the issue of minimum equipment was one that had gone on for a number of years. He said that he could understand that grants were a good source of funding, but thought there should be sufficient money in the budget for minimum equipment needs. He said that if there wasn't, it was a source of concern for him, as well as other members of the Council.

Councilman Stimatz pointed out that a number of surveillance cameras were either not working or needed repairs of some sort. He asked what the long term replacement plan and long term preventive maintenance schedule was for cameras. He stated that information should be readily available.

Councilman Stimatz noted that Mr. Olson had expressed his concern about the City spending so much of the General Fund budget for public safety. He said: "that's really our decision and the public's." He continued: "if they are telling us they want this and we say 'well it's going to cost you another cent in property tax in order to

pay for that' and they don't have a complaint - because they are the ones saying that they want the protection - they want the ability to have that out there."

Councilman Stimatz stated that he did not see a good plan "on paper" that showed what the City has, the mean time between failures, and how long it takes to put another piece of equipment in place in order to determine how many are needed in reserve to achieve the desired percentage operational capacity. He said that once that information is known, a cost could be determined and then the Council could determine their desired level of performance.

Mr. Olson pointed out that staff had prepared the agenda packet information in that format by depicting the quantity needed to adequately equip the departments. He noted that the quantity currently on hand was also provided. He stated that in almost every case, the City had extra equipment in reserve. Mr. Olson said that the reason City staff seeks grant funding is to assist with replacements as technology changes occur.

Councilman Stimatz stated that staff should be able to predict that when "technology is 'x' old, you'd have to replace the unit or upgrade the software." He said that staff should be able to program that out with some degree of accuracy and put it in the budget. He said: "cut my eye teeth on this – done it before." Mr. Olson responded that he did not have sufficient staff to perform the detailed statistical analysis that Councilman Stimatz was requesting. Mr. Olson said that staff looks at the simple inventory, what the City needs to operate the department and what the City has in reserve. He noted that it would be nice to have the technological ability to do what Councilman Stimatz was suggesting.

Mayor Pro Tem Hummer advised that there had been a long hard fight by citizens of all Wards to get surveillance cameras. She said that she had tried every year to make sure that cameras were included in the budget to be used as a safety tool. She said that it was very important to keep the cameras up and running.

Councilman Stimatz inquired when the Council could expect the cameras to be fixed. Mr. Olson stated that several had issues associated with lost up-link due to Hurricane Matthew. He stated that an outside consultant had been hired to come in and re-establish those links, which should be completed fairly quickly. He stated that a number of cameras were scheduled for replacement in the budget and staff was in the process of doing that.

c. Presentation/Discussion – Downtown Maintenance Code Progress

Mayor Peel recognized Assistant City Manager Angela Cole for her presentation. Using PowerPoint slides, Ms. Cole gave a detailed review of Code Enforcement progress in the downtown since adoption of the Downtown Maintenance Code in March 2016. She reported that property owners had been given a copy of the new legislation for their review until May 2016 when active enforcement began. She stated that there had been some resistance by property owners to voluntarily comply and explained the steps that must be taken procedurally to move the matter forward in those cases. She suggested that the City Attorney could provide additional information with regard to any specific litigation that may be required.

At the end of the presentation, Councilman Stimatz suggested that the Downtown Maintenance Code violation information should be provided to the public on the City's website. *(Clerk notation: There was no action by the Council regarding implementation of that suggestion.)*

Councilman Stimatz stated that he would hope the City would work quickly to have property owners clean their properties up; and he expressed concern for those properties owners that had spent considerable funds to voluntarily comply. He suggested that Mayor Peel write a letter to those property owners that had already made improvements to their properties thanking them for the positive impact on the downtown. Mayor Peel responded that he had already done so.

- d. Consideration – Authorization to Purchase 25 feet of property from Peartree Development to increase the size of Old Oak Grove Cemetery and execute Settlement Agreement for an outstanding sewer easement dispute for a total cost of \$18,400.30: *(Formerly item “e” on the Consent Agenda. Removed by Councilman Walton for discussion. Recommended for approval by the Finance Committee during their meeting of November 9, 2016).*

Mayor Peel recognized City Manager Olson to provide comments on this matter. Mr. Olson explained that City staff had negotiated a price of \$18,400.30 to settle all outstanding issues with regard to graves encroaching on private property at Old Oak Grove Cemetery, issues with an old sewer easement, as well as the purchase of 25 additional feet of property from Peartree Development LLC. He reported that the City had commissioned a survey of the cemetery boundary and found the issues with the property line. He stated that the additional 25 feet of property would be used to create a waste area where excess dirt could be dumped from the digging of graves. He noted that at the present time, the dirt is disposed of in the swamp.

He reported that Peartree Development had not paid property taxes on their property since 2012, with the total tax liability being \$15,400.13. He noted that the outstanding City property taxes are \$8,469.24, which included two Special Assessments, one being the cost to tear down an old single family dwelling in the amount of \$2,403 and a second weed abatement in the amount of \$131.40. He advised that once the amount of property taxes the City would receive is factored in, the net cost of the property would be \$9,930.89.

Mr. Olson said that the City had budgeted \$11,000 in fiscal year 2016-2017 to install a fence around Old Oak Grove Cemetery to designate the property line and prevent further encroachment of graves. He reported that staff's recommendation is that the \$11,000 budgeted for the fencing be redirected to pay for part of the cost of acquiring the property from Peartree Development LLC. He said the remaining \$7,400.30 would need to be taken from Fund Balance Appropriated.

Councilman Horton inquired what the return on the City's investment would be by going forward with this purchase. He asked if the City was receiving any money from burials taking place in the cemetery. Mr. Olson responded that to his knowledge, no money had ever been received for burials. Councilman Horton inquired why the City would spend \$18,000 for property that would simply be a convenience to funeral homes.

Mr. Olson responded that the issue is the disputed piece of property. He said that gravesites had encroached on property the City didn't own over the years; and in addition, the City had been maintaining the property that is in dispute. He said that no additional grave spaces would be created. Councilman Horton stated: "so basically there would be no return on our investment." Mr. Olson agreed and pointed out that there had been no return on investment since 1964 when the City acquired the property. He said the City's spends roughly \$43,000 annually to maintain all cemeteries for which it is responsible.

Mayor Peel requested that the discussion be tabled at this point in order to hold the Public Hearings.

Motion was made by Councilman Stimatz, seconded by Councilman Horton to table discussion of this item until after the public hearings. Those voting in favor of the motion were: Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

Following the Public Hearings, the Council returned to this discussion.

Motion was made by Councilman Walton, seconded by Councilman Brooks, to bring this matter off the table. Those voting in favor of the motion were: Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

Mayor Peel opened the floor for additional discussion.

City Attorney Morgan asked to make comments in order to provide his impression of the issue. He said he thought making this purchase would accomplish a couple of things for the City. He pointed out that the City only has recorded title to the property that borders the driveway going into the cemetery. He noted that the graves to the west of the driveway were technically not on City-owned and maintained cemetery property. He stated that the additional 25 feet would provide the space necessary to adequately maintain the cemetery according to staff. He said from an economic point of view, it did make sense to do the deal, since the City would be getting back unpaid property taxes. He stated that there may not be a legal obligation, but certainly he felt there was a moral obligation for maintaining the gravesites as well as the City can. Mr. Morgan detailed the measures the seller would have to take care of before the deal could be finalized.

Councilman Horton inquired what rights Peartree Development would have if the City chose not to do the deal. Mr. Morgan explained that ownership would be gained through adverse possession; and he explained what that term meant from a legal standpoint.

Councilman Horton stated that he did not agree that the City should spend \$18,000 to build a pad for funeral homes to put their dirt on. He again pointed out again that there would be no return on investment. He said that he thought it would be more appropriate for the City to design an ordinance or regulation requiring funeral homes to remove their dirt.

Mr. Olson reminded the Council that \$11,000 had been budgeted to place a fence along the cemetery property line to delineate the City's property line and stop people from dumping bones disturbed by digging graves in the swamp.

Councilman Walton stated that he did not believe the City should only fence one side of the cemetery, but should do all three sides. He asked why the City only budgeted to put a fence along one side of the cemetery. Mr. Olson stated that City staff did not know there was a title issue associated with the property until the survey had been performed.

Councilman Horton pointed out that the City is maintaining the cemetery, but it is not bringing any money in. He stated that he did not agree with installing a fence and a cement pad to make it convenient for persons who are not paying to be buried there.

Parks and Recreation Director Bobbi White stated that when graves are dug, oftentimes the funeral homes throw their excess dirt on top of other graves and markers. She stated that when the survey was completed, a discarded skull was found. She said that it is staff's desire to keep gravestones from being covered and to prevent bones from being discarded in the swamp.

Councilman Horton stated that he thought the penalty for discarding bones should be upon the funeral homes. He said that the City should inspect after the graves are dug and if problems are found, the funeral home should be fined. Councilman Walton stated that the City had been maintaining the cemetery property for years; and he asked the City Attorney how the City would stand in Court. Mr. Morgan responded that he could not answer with a "yes" or "no" answer because the outcome would depend on what a judge or jury determines the facts to be. He said that ultimately a court could rule that the person holding the superior claim is the rightful owner.

Councilman Brooks stated that as he understood the discussion, the City would be paying someone for property the City had been taking care of and would provide money to pay their back taxes which they would return the money to the City. He said he thought the City was in a good position and he did not agree with the proposal being made by staff.

Councilman King inquired if there were graves on the property being considered. Mr. Olson responded that there were a good number of graves located there.

Councilman Stimatz pointed out that the City owns the property north of the cemetery driveway and Peartree Development is claiming the property south of the driveway. He said that he had been a proponent of giving away cemetery property for some while,

and this situation presented a chance to give away part of the cemetery and part of the City's maintenance costs. He said that if Peartree Development wanted the property, he would suggest putting the fence along the driveway and enforce the City's code by making sure Peartree Development keeps the property up. He stated that he did not agree with staff's proposal to purchase the property.

Councilman Donnelly asked that staff look at other options the City may have. Mr. Olson responded that staff was not aware of any other options the City would have. He cautioned the City Council that if the City does not continue to maintain the property in question, there would be questions from the public. Councilman Stimatz responded that the property belonged to someone else and was not the City's obligation.

Motion was made by Councilman Horton, seconded by Councilman Brooks, not to purchase the property. Those voting in favor of the motion were: Hummer, Stimatz, Brooks, King, Horton and Walton. Against: Donnelly. Motion carried.

- e. Consideration – Authorization to remove south end of the Dog Corner Basketball Court and make it a half-court: *(Formerly item "f" on the Consent Agenda. Removed by Councilman Walton for discussion. Recommended for approval by the Finance Committee during their meeting of November 9, 2016).*

Mayor Peel recognized Councilman Walton for his comments. Councilman Walton stated that previously Councilman Stimatz had suggested that the Recreation Advisory Board be asked to make suggestions regarding options for the Dog Corner Basketball Court. He said that he did not think the Board was qualified to do that. He asked City Manager Olson if staff had come up with any options for further consideration. Mr. Olson stated that it was staff's recommendation to make the court a half-court. He said that the southern end of the court would be demolished and the fencing moved. Mr. Olson reported that staff had explored installing another court in an east-west configuration at that location, but the geo-technical report revealed that the soil conditions were extremely poor and would not support a court. He noted that the Council had budgeted \$35,000 in the 2016-2017 fiscal year budget to refurbish the Enfield Basketball Courts. He said that the Enfield Courts were lighted and were used much more than the Dog Corner Court.

Councilman Walton stated that he did not understand that the Enfield Basketball Courts were to be upgraded. He said that his recollection of Council's discussion was about the Enfield Tennis Courts. Councilman Brooks stated that he agreed with Councilman Walton in that the concern at Enfield was for the tennis courts, not the basketball courts. He said that he thought the Enfield Basketball Courts were fine.

Mayor Peel redirected the discussion to the agenda item being about the Dog Corner Basketball Court.

Motion was made by Councilman Walton, seconded by Councilman King to table Dog Corner.

Councilman Walton stated "this is what we continue to do – have privileges for some locations and then other locations it doesn't matter." He said "we're about to put \$50,000 in the tennis courts over there by Sheep Harney - \$50,000 – and that place looks a lot better than this place here does." He suggested that the Dog Corner matter be tabled until the Council "goes through all the options."

Councilman Stimatz stated that the budget contained \$35,000 to repair the basketball courts at Enfield. He stated that according to the budget, the repair to the tennis courts by Sheep Harney was contingent upon a US Tennis Association grant. He noted that the match for that grant was 80/20, which meant that the City would only spend \$12,000. He pointed out that what the City Council has is a technical report prepared by engineers that indicates the City cannot build another basketball court at Dog Corner. He said that in his mind there was no need to table the issue, because the engineering experts had reported that another court cannot be built at that location. He said that the question remaining is whether there is a need for additional basketball

courts, which he believed to be a question for the Recreation Advisory Board to decide. He said that he would agree to table the issue based on receiving a recommendation from the Recreation Advisory Board as to the need for additional courts.

Councilman Walton said that the Council had just freed up \$11,000 for the Old Oak Grove Cemetery fence. Councilman Stimatz asked “what says we’re not going to still put the fence in?” He indicated that he would like the fence installed to prevent people from encroaching on the City’s cemetery property.

Councilman Brooks inquired as to the possibility of using an asphalt surface at Dog Corner Park rather than cement. Mr. Olson responded that staff would have to prepare a design to use asphalt and light weight aggregate in order to make a determination. Mayor Peel inquired about the cost in finding out if an asphalt court would work. Mr. Olson responded that it would most likely be approximately \$2,500.

Councilman Stimatz requested to move the motion on tabling the matter pending staff bringing back more information.

Mayor Peel called for a vote on the motion to table.

Those voting in favor of the motion were: Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

City Manager Olson stated that staff would provide the Council a fairly detailed engineering estimate on options to put a basketball court at Dog Corner Park.

f. Discussion – “Salary Raise;” *(added to agenda by Councilman Walton)*

Mayor Peel recognized Councilman Walton for his comments. Councilman Walton acknowledged that the Council had voted during a previous meeting to take up the matter of Council raises during the next budget cycle.

Councilman Walton stated Councilwoman Baker had missed three meetings due to illness and pointed out that the Council did not know what she may be going through. He said that he thought the Council should “give her something” if not everyone else. He asked the City Attorney if the Council could do that. Mr. Morgan responded that giving one Councilmember something from City funds could not be done legally.

Councilman Brooks stated that the route to take would be to remove the matter from the table, since the Council did not vote to deny the matter.

Motion was made by Councilman Brooks, seconded by Councilman Walton, to remove the salary discussion off the table.

Councilman Stimatz stated that the ability to bring up an item after it’s been voted on by the majority only applies to the meeting at which it was discussed. He said that at any other time, a motion could be made or an item could be placed on the agenda regarding any matter a Councilor would like to discuss. He pointed out that “salary raise” was already on the agenda to discuss and did not need another motion and a vote.

Motion was made by Councilman Brooks, seconded by Councilman Walton, to give the Mayor and Council a \$500 per month increase effective January 2017.

Councilman Donnelly opined that the Council acted as public servants; and he did not believe any additional money was needed. He stated that there had been discussion that additional salary would increase participation in the election process. He said he would consider some type of increase in the next budget cycle, but not at this time.

Councilman Stimatz pointed out that the Council’s Rules of Procedure require the item to go to the Finance Committee before the full Council can debate it.

Councilman Brooks stated: “no, we did that the last time. We are not doing it – we’re not going back through that.” He stated: “the problem I have is that I’m tired of seeing Council talking out of both sides of their mouth.” He said: “the last time a motion was

made to give Council a raise, it was unanimous.” He stated: “some of the people that’s sitting up here now voted for the salary increase.” He said: “they were talking about mid-term - the last time the motion was made it was at mid-term.” “He said: “I want those minutes and I’m going to read what each Councilperson said – you can’t go left, you either have to go straight down. Don’t all of a sudden say that you can’t of clear conscience do this, when the last time you did it.” He said that the matter had already been to the Finance Committee and it did not make any sense to take it back again.

Councilman Walton asked City Attorney Morgan if the matter had to go back to the Finance Committee. Mr. Morgan stated that the matter went to the Finance Committee with a resulting Council official action to table until the next budget discussion. He said that it would be legal not to go back to the Finance Committee, but in keeping with the Council established procedures, it should.

Mayor Peel stated “everything that deals with money goes through the Finance Committee first.” He said: “it has been there, but it’s been here too.” He pointed out that Councilman Brooks had requested a copy of the minutes from previous discussions and if the matter went back to the Finance Committee that information would be available. He said that another reason for the matter to go to the Finance Committee was to determine how it would be paid for. He noted that the motion to start the raise was not until January 2017, which allowed time to do whatever the Council wanted at the next Council meeting. Mayor Peel ruled that the matter would be sent to the Finance Committee.

Mayor Pro Tem Hummer stated that sending the matter back to the Finance Committee was policy. She pointed out that it did not matter what the Finance Committee recommends, the Council can still make any motion it wishes as long as the vote is taken. She stated that to send it back to the Finance Committee to determine where the money would come from in the middle of a budget year “is called fiscal responsibility.”

Motion was made by Councilman Horton, seconded by Councilman Brooks, to suspend the Rules of Procedure; and after suspending the rules, give Council a raise in the amount of \$500 per month.

Mayor Peel ruled that two motions would be needed, with a vote to suspend the rules taken first.

Motion was made by Council Horton, seconded by Councilman Brooks, that we suspend the rules and it not go to the Finance Committee.

Mayor Peel announced that a supermajority vote would be required.

Those voting in favor of the motion were: Brooks, Horton and Walton. Against: Donnelly, Hummer, Stimatz and King. Motion failed.

Mayor Peel announced that the matter would go to the Finance Committee and then come back to the Council’s next meeting for consideration.

Councilman Stimatz stated that he had a hard time asking for an increase. He advised that he probably spent 10 hours each week of focused time on Council duties, which would equate to \$15.00 per hour. He noted that the Council also receives a \$75 travel allowance. He said that he supported the idea that Council should have maintained parity with the cost of living raises given to staff, because he felt that was explained to the public. He pointed out that a 10.5% increase, which is equal to the raises given to City staff, made sense to him. He agreed with Mayor Pro Tem Hummer that the Council has a fiduciary responsibility to determine where the money would come from. He suggested that he would have no problem waiting until the next fiscal year to implement an increase.

Mayor Pro Tem Hummer stated that she considers what’s best for the people the Council represents. She noted that senior citizens on fixed incomes will only get a 1% Social Security increase and requested that the Council consider that.

Councilman Brooks stated that fiscal responsibility wasn’t considered when the last Council raise was put in place in mid-term. He said that the minutes he had requested

would show that. He said that if \$500 was too much, the Council could do \$250. He said if a Councilor voted against the raise they must feel they are not worth it and are not doing their job.

Councilman Walton requested that the City Attorney determine if the Council's rules required that financial matters must go to the Finance Committee first.

Councilman Donnelly stated that he understood Councilman Brooks' concerns, but pointed out that the last raise occurred during a different time. He noted that people grow and look at things differently. He said he thought the Finance Committee was very important in the process because the Council must be fiscally responsible.

g. Discussion – Fire Hydrant System *(added to agenda by Councilman Brooks)*

Councilman Brooks stated that he had reported a fire hydrant that had been damaged due to an automobile accident near his home several days prior. He said that the hydrant had not been repaired and requested that the City Manager look into the situation as soon as possible. He expressed his concern regarding the safety of the homes in that area without the hydrant being in good working order.

Mr. Olson stated that he would provide an update to the City Council the following day.

h. Discussion – “City Council Regular Session Minutes” *(added to agenda by Councilman Brooks)*.

Councilman Brooks requested that the City Clerk research the minutes of past Council meetings during which the last Council salary raise was discussed and provide copies of those minutes to the City Council. He also requested a copy of the October 10, 2016 minutes discussion regarding the proposed salary increase.

9. Comments and Inquiries on Non-Agenda Items:

Councilman Brooks stated that he had participated in the last Leadership Elizabeth City class at the request of Mayor Peel. He complimented the diverse group of students and said that they were very attentive during the class session.

Councilman Stimatz stated that the Veterans Day Ceremony was a great event in terms of attendance, weather and the program's participants. He said that he appreciated the attendance of everyone to honor and recognize veterans. He agreed with Councilman Brooks that the Leadership Elizabeth City class was comprised of a great group of people. He stated that the purpose of the course was to get people involved in the workings of local government. He stated that during a past meeting, the Council had directed staff to evaluate the proposed concept of creating a Halstead Boulevard Storm Water Drainage District. He said that what he expected was that staff would do a search for other entities that have created similar systems and provide feedback to the Council. He suggested Decatur, Georgia as a possible source for research. He noted that the possibility of having a service district outside the City limits was also a question yet unanswered. He requested that staff work toward presenting the information during the first part of 2017.

Councilman Horton had no further comments.

Mayor Pro Tem Hummer requested an update regarding the audio issues on Channel 11. She also complimented the Veterans Day Ceremony. She thanked everyone who expressed sympathy and support during the recent passing of her daughter.

Councilman King requested that a report on Fire Department staffing be brought back during the next Work Session. Mr. Olson responded that staff would try to get the work done on that matter by that time.

Councilman Walton expressed his concern regarding the audio problems on Channel 11. He requested that Mayor Peel include a discussion of the City's Ward system and why it was put in place in the Leadership Elizabeth City curriculum. He stated that the

City needed to solve the software conversion issue and noted that he was still receiving complaints from citizens.

Councilman Donnelly complimented the Veterans Day event as “extremely well organized and attended.” He pointed out that the planters on Main Street had new flowers installed by ECDI and the Parks and Recreation Department. He requested an update on the South Road Street Construction project as well as an update on crosswalk signage.

Mayor Peel stated that the keynote speaker during the Veterans Day Ceremony had given one of the best speeches he had ever heard. He noted that the retired Master Chief had received a standing ovation. He thanked and congratulated Dan Serik and VFW Post 6060 for organizing the event.

10. Closed Session as allowed by NCGS 143-318.11(a)(3) for consultation with the City Attorney.

Motion was made by Mayor Pro Tem Hummer, seconded by Councilman King to go into Closed Session as allowed by NCGS 143-318.11(a)(3) for consultation with the City Attorney. Those voting in favor of the motion were: Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

Mayor Peel declared a five minute recess at 9:19 p.m. after which the Council retired into Closed Session.

(Clerk Notation: Councilman Darius Horton left the meeting during the recess without a vote of the Council to excuse. The following motion indicates an aye vote for Councilman Horton.)

Motion was made by Councilman Brooks, seconded by Councilman King to come out of Closed Session. Those voting in favor of the motion were: Donnelly, Hummer, Stimatz, Brooks, King, Horton and Walton. Against: None. Motion carried.

The Council returned to regular session at 9:49 p.m.

11. Adjournment:

There being no further business to be discussed, Mayor Peel adjourned the meeting at 9:50 p.m.

Joseph W. Peel
Mayor

Vivian D. White, CMC/NCCMC
City Clerk